MADRAS ACT No. VII OF 1865.[1]

[THE MADRAS IRRIGATION CESS ACT, 1865.]

[*29th July 1865* ; *7th September 1865.*]

An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.

Preamble.

WHEREAS, in several districts of the Madras Presidency, large expenditure out of Government funds has been, and is still being, incurred in the construction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land ; and whereas it is right and proper that a fit return should, in all cases alike, be made to Government on account of the increased profits derivable from lands irrigated by such works ; It is enacted as follows :—

Power to levy watercess in addition to assessment on land.

[2] [1 (1)] (*a*) Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work belonging to, or constructed by or on behalf of, the [3] [Government], and

(*b*) whenever water from any such river, stream, channel, tank or work, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, or flows into a reservoir and thereafter, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, and in the opinion of the Revenue Officer empowered to charge watercess,

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[1] Short title, " The Madras Irrigation Cess Act, 1865 "—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Act was extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 871, *Fort St. George Gazette*, 1898, Pt. I, p. 667. The Act is in force in the rest of the Godavari Agency.

The Act has been extended by a notification under s. 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act, 1874 to be in force in the Muttas of Dutcharti, and Guditeru of the Godavari Agency—*see ibid.*

See the Bhavani Reservoir Irrigation Cess Act, 1933 (Madras Act XVI of 1933).

[2] Section 1, as substituted for the original sections 1 and 4 by Madras Act V of 1900, was substituted by new section 1 by section 2 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). The new section was renumbered as sub-section (1) of section 1 by section 2 (1) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). The two last-mentioned Acts were permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This word was substituted for the word " Crown " by the Adaptation Order of 1950.

subject to the control of the Collector and the Board of Revenue, such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land,

it shall be lawful for the [1] [State] Government before the end of the revenue year succeeding that in which the irrigation takes place [2] [to levy at pleasure a separate fee for such water (hereinafter referred to as the water-cess)], and the [1] [State] Government may prescribe the rules under which, and the rates at which, such water-cess shall be levied, and alter or amend the same from time to time :

Provided that where a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the [3] [Government] entitled to irrigation free of separate charge, no [4] [water-cess] under this Act shall be imposed for water supplied to the extent of this right and no more : Provisos.

[5] [Provided further that a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement shall be liable to pay the water-cess under this Act except to the extent to which he is entitled to irrigation free of separate charge under the first proviso :]

Provided also that [6] [no water-cess shall be leviable under this Act in respect of water supplied or used for the irrigation of land held under ryotwari settlement which is classified and assessed as wet, unless the land be irrigated], whether voluntarily or involuntarily and whether wholly or in part—

(i) from any source hereinbefore mentioned, not being a source which has been assigned by the Revenue authorities or adjudged by a competent Civil Court as the source of irrigation of such land ; or

(ii) from any source assigned or adjudged as aforesaid in respect of such land, otherwise than in accordance with any notification or order of the [7] [State] Government

[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " to levy at pleasure on the land so irrigated a separate cess for such water " by the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This word was substituted for the word " Crown " by the Adaptation Order of 1950.

[4] This word was substituted for the word " cess " by section 2 (1) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[5] This proviso was inserted by *ibid.*

[6] These words were substituted for the words " no cess shall be leviable under this Act in respect of land held under ryotwari settlement which is classified and assessed as wet, unless the same be irrigated " by *ibid.*

[7] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

or of any authority subordinate to them, regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge.

[1][(2) For the avoidance of doubt it is hereby declared that water-cess leviable under this Act is not a tax on land but is a fee for the water supplied or used for the irrigation of land.]

Rules for the recovery of water-cess from the landholder and the ryot.

[2]**1-A.** (1) [3][In respect of water supplied or used for the irrigation of land included in an estate the water-cess due under this Act shall], notwithstanding anything contained in the Madras Revenue Recovery Act, 1864, be leviable in accordance with such rules as the [4] [State Government] may, after previous publication, prescribe in that behalf— Madras Act II of 1864.

(*a*) from the landholder [5] or

(*b*) from the ryot [5] or

(*c*) in shares from both.

(2) The amount payable by a landholder [5] or a ryot [5] under this Act shall be a first charge upon his interest in the land.

[6] * * * *

(4) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot *inter se* under any contract, express or implied, in regard to the payment of water-cess.

Rules to have effect as if enacted in the Act.

[7] [**1-B.** All rules made under this Act shall have effect as if enacted in this Act.]

Water-cess, how recoverable.

2. Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of land-revenue are or may be realized by law [8] in the Madras Presidency.

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[1] This sub-section was added by section 2 (2) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] Section 1-A was inserted by section 4 of Madras Act II of 1913.

[3] These words were substituted for the words " In the case of land included in an estate the cess due under this Act shall " by section 3 of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[4] The words " Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[5] As to meaning of these words, *see* section 2 of Madras Act II of 1913.

[6] Sub-section (3) was omitted by section 3 of Madras Act VI of 1920.

[7] This section was inserted by section 3 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[8] *See* Madras Act II of 1864.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for anything done by him previous to the passing of this Act, in or relating to, the imposition or levying of any such water-rates heretofore imposed or levied with the sanction of the [1] [State Government]. Indemnification for acts done before passing of Act.

[2] * * * *

MADRAS ACT No. II OF 1866. [3]

[THE MADRAS CATTLE-DISEASE ACT, 1866.]

[*16th March 1866*; *17th April 1866.*]

An Act for the prevention of the spread of disease among cattle in the Madras Presidency.

WHEREAS it is expedient to take measures to prevent the spreading of contagious or infectious diseases among animals in the Presidency of Madras, and, with that object, to prescribe by law in what way animals so infected shall be dealt with; It is hereby enacted as follows:— Preamble.

1. This Act shall be put in force in such districts, or parts of district and during such periods of time, as the [4] [State Government] [5] [or subject to [6] (their) control the Board of Revenue] may, from time to time, direct by notification in the [7] [Official Gazette]. Act to be extended to such places, and during such period of time, as the State Government think proper.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] As to original section 4, *see* footnote to-section 1 supra.

[3] Short title, "The Madras Cattle-disease Act, 1866" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act has been extended by notification under section 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Gazette of India*, 1879, Part I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722.

Madras Act I of 1879 is to be read with this Act.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Central Regulation I of 1909.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] These words were inserted by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[6] This word was substituted for the word "his" by the Adaptation Order of 1937.

[7] These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*